

(1ST EXTRAORDINARY SESSION)
ENROLLED HOUSE
BILL NO. 1008

By: Benson of the House

and

Taylor of the Senate

An Act relating to criminal justice; establishing the Oklahoma Community Sentencing Act; defining terms; stating purposes of act; authorizing establishment of community sentencing advisory councils; establishing membership, procedures and duties of advisory councils; providing for contents and submission of local community sentencing system plans; listing services and sentencing options available for community punishment; establishing fees and costs payable pursuant to a community sentence; providing that the community sentencing system is resource limited; requiring performance-based evaluations for programs and services provided pursuant to community sentencing system; providing for payment of medical expenses for certain offenders sentenced to community punishment; establishing position and duties of local administrators; establishing Community Sentencing Division of Department of Corrections; specifying duties of Division; establishing procedure for community sentencing system budgeting; providing for development and use of community sentence assessment and evaluation test; stating powers of court for imposing community sentence and disciplinary sanctions; prohibiting application of earned credits to community sentences; providing certain credits be given upon revocation of community sentences; stating responsibility of offender sentenced to community punishment; granting immunity from liability for participating in community sentencing system under certain circumstances; establishing Oklahoma Community Sentencing Revolving Fund; amending 22 O.S. 1991, Section 991a-2, as last amended by Section 17 of Enrolled House Bill No. 1009 of the 1st Extraordinary Session of the 47th Oklahoma Legislature, which relates to night and weekend jail sentencing; modifying circumstances under which person can be incarcerated in county jail; amending 22 O.S. 1991, Section 991c, as last amended by Section 21 of Enrolled House Bill No. 1009 of the 1st Extraordinary Session of the 47th Oklahoma Legislature, which relates to deferral of sentences; modifying provisions regarding costs; authorizing waiver of prohibition of deferral of sentence under

certain circumstances; authorizing amount of funding for county jail incarceration for certain offenders; requiring persons convicted of certain crimes to serve minimum eighty-five percent of sentence prior to parole eligibility; amending 22 O.S. 991a, as last amended by Section 1, Chapter 420, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a), which relates to sentencing powers of court; modifying powers of court; authorizing Department of Corrections to expend certain funds for community sentencing pilot projects; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 25 of this act shall be known and may be cited as the "Oklahoma Community Sentencing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.2 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. For purposes of the Oklahoma Community Sentencing Act:

1. "Local community sentencing system" means a partnership between the state and one or more county governments which uses public and private entities to deliver services to the sentencing court for punishment of eligible felony offenders under the authority of a community sentence;

2. "Community sentence" or "community punishment" means a punishment imposed by the court as a condition of a deferred or suspended sentence for an eligible offender;

3. "Continuum of sanctions" means a variety of coercive measures and treatment options ranked by degrees of public safety, punitive effect, and cost benefit which are available to the sentencing judge as punishment for criminal conduct;

4. "Community sentencing system planning council" or "planning council" means a group of citizens and elected officials specified by law or appointed by the Chief Judge of the Judicial District which plans the local community sentencing system and with the assistance of the Community Sentencing Division of the Department of Corrections locates treatment providers and resources to support the local community sentencing system;

5. "Incentive" means a court-ordered reduction in the terms or conditions of a community sentence which is given for exceptional performance or progress by the offender;

6. "Disciplinary sanction" means a court-ordered punishment in response to a technical or noncompliance violation of a community sentence which increases in intensity or duration with each successive violation;

7. "Division" means the Community Sentencing Division within the Department of Corrections which is the state administration agency for the Oklahoma Community Sentencing Act, the statewide community sentencing system, and all local community sentencing systems;

8. "Eligible offender" means a felony offender who has been convicted of or who has entered a plea other than not guilty to a felony offense and who upon completion of a Level of Services Inventory or another assessment instrument has been found to be in the moderate range and who is not otherwise prohibited by law; provided, however, that no person who has been convicted of or who has entered a plea other than not guilty to an offense enumerated in subsection 5 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception to the definition of "nonviolent offense" shall be eligible for a community sentence or community punishment unless the district attorney or an assistant district attorney for the district in which the offender's conviction was obtained consents thereto. This consent shall be made a part of the record of the case. Provided, further, that no person who has been convicted of or who has entered a plea other than not guilty to a felony enumerated in Section 30 of this act shall be eligible for a community sentence or community punishment; and

9. "Statewide community sentencing system" means a network of all counties through their respective local community sentencing systems serving the state judicial system and offering support services to each other through reciprocal and interlocal agreements and interagency cooperation.

B. For the purposes of the Oklahoma Community Sentencing Act, if a judicial district does not have a Chief Judge or if a judicial district has more than one Chief Judge, the duties of the Chief Judge provided for in the Oklahoma Community Sentencing Act shall be performed by the Presiding Judge of the Judicial Administrative District.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.3 of Title 22, unless there is created a duplication in numbering, reads as follows:

The purposes of the Oklahoma Community Sentencing Act are to:

1. Protect the public;
2. Establish a statewide community sentencing system;
3. Adequately supervise felony offenders punished under a court-ordered community sentence;
4. Provide a continuum of sanctions to the court for eligible felony offenders sentenced to a community sentence within the community sentencing system;

5. Increase the availability of punishment and treatment options to eligible felony offenders;

6. Improve the criminal justice system within this state through public/private partnerships, reciprocal and interlocal governmental agreements, and interagency cooperation and collaboration; and

7. Operate effectively within the allocation of state and local resources for the criminal justice system.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.4 of Title 22, unless there is created a duplication in numbering, reads as follows:

In jurisdictions where a community sentencing system has not been established prior to the effective date of this act, the Chief Judge of the Judicial District shall establish the geographic boundaries of a community sentencing system which shall be the boundaries of each county, unless the Chief Judge establishes one or more multicounty community sentencing systems consisting of two or more contiguous counties within the judicial district; provided, however, the consent of the sheriff of each affected county and each district attorney operating within each of the subject counties must be obtained before a county may join a proposed multicounty community sentencing system. Multicounty community sentencing systems may be established by the Chief Judge of a Judicial District with the consent of each local council affected in such manner as provided by rules promulgated by the Community Sentencing Division within the Department of Corrections.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.5 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. A community sentencing system planning council shall be established for each jurisdiction defined by the judge as provided in Section 4 of this act.

B. Single county planning councils shall have membership as follows:

1. The Chief Judge of the Judicial District or a judge having duties within the county appointed by the Chief Judge of the Judicial District;

2. The district attorney for the county or an assistant district attorney appointed by the district attorney;

3. The county sheriff or a deputy sheriff appointed by the sheriff;

4. A county commissioner appointed by the board of county commissioners for the county; and

5. Three or more citizens elected by the other designated members.

C. Multicounty planning councils shall have membership consisting of at least the following:

1. The Chief Judge of the Judicial District, or a judge having duties within the jurisdiction appointed by the Chief Judge of the Judicial District;

2. A district attorney or an assistant district attorney appointed by a majority vote of all district attorneys participating in the multicounty system;

3. A county sheriff or a deputy sheriff appointed by a majority vote of all sheriffs participating in the multicounty system;

4. A county commissioner appointed by a majority vote of all county commissioners of the counties participating in the multicounty system; and

5. Three or more citizens from each of the counties participating in the multicounty system elected by the other designated members.

Nothing in this subsection shall preclude a multicounty system from adding members from each of the participating offices of the sheriff, district attorney, and board of county commissioners, provided the number of citizen members equals or is greater than the number of sheriffs, district attorneys, and county commissioners serving on the multicounty planning council.

D. In the event the required planning council has not been established as provided by subsection A of this section for any county or as provided in Section 4 of this act or should a council cease to actively function as determined by the Community Sentencing Division of the Department of Corrections, the Chief Judge of the Judicial District upon notification by the Division shall appoint five or more persons to serve as the planning council in addition to a designated judge. All membership appointments required by this subsection shall be made on or before the first day of October of each year. Every planning council shall have a judge who shall be either the Chief Judge of the Judicial District or a judge having duties within the jurisdiction appointed by the Chief Judge. The Chief Judge making the appointments of a planning council pursuant to the provisions of this subsection shall decide whether the planning council shall be a single county planning council or a multicounty planning council. If a Chief Judge of a Judicial District will not serve as a member of a planning council or make any of the required appointments, the Chief Justice of the Supreme Court shall direct another judge of the jurisdiction to make the appointments or serve as the designated judge.

E. Once a planning council has been established, it shall notify the Community Sentencing Division within the Department of Corrections of its membership, and thereafter the jurisdiction shall be eligible to receive technical assistance from the state in establishing the required local community sentencing system.

F. Each member of a planning council shall reside in or have employment duties in the jurisdiction to be served by the council. Members serving on a planning council who are elected officials shall have a term of office on the planning council concurrent with the term of the elected office, except when the person resigns or is otherwise removed as provided by the rules promulgated for the council or as authorized by law. All other members of the planning

council shall have staggered terms of office not exceeding a three-year term. Planning council members may be reappointed upon the expiration of their terms. The Chief Judge of the Judicial District shall have the authority to remove any planning council member within the jurisdiction of the court district at any time for violation of the rules governing the local planning council.

G. Each planning council member shall have one vote, and a majority of voting members shall constitute a quorum. No vacancy shall impair the right of the remaining members to exercise all the duties of the planning council. Any vacancy occurring in the membership of a planning council shall be filled for the unexpired term of office in the same manner as the original selection.

H. The designated judge shall convene the initial meeting of the planning council within fifteen (15) days following the establishment of the council. At the initial meeting of the planning council, the membership shall elect a chair from its members who shall preside at all meetings of the council and perform such other duties as may be required by law. The planning council may elect another member as vice-chair who shall perform duties of the chair during any period of absence or upon the refusal or inability of the chair to act, a secretary who shall keep minutes of all meetings, and other officers as necessary.

I. Each planning council shall adopt written rules concerning meeting times, places, dates, conduct for disclosing and handling conflicts of interest, procedures for recommending service providers, procedures for removal and replacement of members for failure to attend a required number of meetings, procedures and timing for election of officers and any other provision necessary to implement the planning of a local system pursuant to the provisions of the Oklahoma Community Sentencing Act. The written rules promulgated by a planning council shall not be subject to the Administrative Procedures Act; provided, however, the rules shall be filed with the clerk of the district court or courts of the jurisdiction to be served by the community sentencing system. The rules may be amended by a majority vote of the planning council members after a thirty-day written notice detailing the change or addition has been filed with the court clerk where the original rules are filed.

J. Each planning council shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.6 of Title 22, unless there is created a duplication in numbering, reads as follows:

Each community sentencing planning council shall:

1. Plan the local community sentencing system within allocated funds and other available resources according to the provisions of the law and with the assistance of the Community Sentencing Division of the Department of Corrections;

2. Promulgate rules for functioning of the planning council which are consistent with the provisions of this act;

3. Prepare a detailed plan within the provisions of law and rule each fiscal year with an accompanying budget for the local community sentencing system;

4. Identify local resources by type, cost and location which are available to serve the court for eligible felony offenders sentenced to the community;

5. Identify qualified service providers to deliver services to the court for eligible felony offenders sentenced to the community;

6. Assist in monitoring the sentencing practices of the court to ensure the local community sentencing system functions within the allocation of resources and according to the provisions of this act;

7. Assist in preparing information necessary for qualified services to support the local community sentencing system plan as provided in Section 7 of this act;

8. Identify and advocate the use of interlocal governmental agreements for qualified services where services are not available within the jurisdiction or where services may be delivered in a more cost-effective manner by another jurisdiction;

9. Form multicounty systems as may be necessary to conserve state or local resources or to implement an appropriate range of services to the court;

10. Review and recommend services for cost-effectiveness and performance-based evaluation;

11. Identify various sources of funding and resources for the local community sentencing system including a variety of free services available to the court;

12. Assist in developing public/private partnerships in the local jurisdiction, reciprocal agreements, and interagency cooperation and collaboration to provide appropriate services and support to the system; and

13. Assist in promoting local involvement and support for the provisions of the Oklahoma Community Sentencing Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.7 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. A detailed plan for each local community sentencing system seeking state funds shall be submitted each fiscal year to the Community Sentencing Division within the Department of Corrections pursuant to the rules promulgated for such purpose. The designated judge of the planning council shall review the range of services proposed in the plan and declare in writing whether the proposed services meet the needs of the court for purposes of sentencing pursuant to the authority of the Oklahoma Community Sentencing Act. The judge shall forward the plan to the Division for state review and appropriate funding. A plan that conforms with the goals of the Oklahoma Community Sentencing Act shall not be modified or disapproved except when the plan requires more funding than is available to the local system. Each local community sentencing

system plan shall include, but not be limited to, the following goals:

1. Identification of existing resources, including cash, professional services, in-kind resources, property, or other sources of resources;
2. Identification of additional resources needed, identified by type and amount;
3. Projected number of offenders to be served by each provider and the projected total number of offenders to be served by the local system;
4. Types and priority groups of offenders to be served for purposes of budgeting and targeting specific use of selected service providers;
5. Identification of sentencing practices used for disciplinary sanctions for noncriminal conduct against participating offenders and applicable costs;
6. Identification of local policy statements;
7. Methods for allocating resources to support the services included in the plan;
8. Identification and evaluation of reciprocal agreements for out-of-jurisdiction services or methods for complying with requests for reciprocal agreements;
9. Identification of program evaluation methods and results, and criteria or minimal program standards;
10. Identification and evaluation of local record keeping and needs for audits or reviews;
11. Identification of any special administrative structure of the local system and list of specific service providers participating in the system, including detailed qualifications of staff and program administrators; and
12. Description and evaluation of the extent of community participation and support for the local system.

B. A community sentencing system shall be operational when the plan is accepted by the Community Sentencing Division or is receiving funding. The Division, upon receipt of a proposed local system plan, shall have not more than forty-five (45) days to evaluate the plan and to notify the planning council of any recommended modification. All modifications for budgeting purposes shall be completed by the first day of June of each year. Failure of the Division to request a budgetary modification within the times specified in this subsection shall constitute final approval of the plan for purposes of state funding and provider service agreements. The service agreements shall be finalized by June 30 of each year for each local community sentencing system. The Division shall not restrict by rule or practice the plan of any local system or determine what constitutes treatment or necessary services if the treatment or services comply with the goals of the Oklahoma

Community Sentencing Act, unless there is a demonstrated deficiency or poor program evaluation.

C. A local administrator as provided in Section 13 of this act shall assist the local planning council in gathering and keeping accurate information about the jurisdiction to support the planning process. For the previous two (2) years, the information pertaining to the jurisdiction may include, but not be limited to:

1. The number and rate of arrests, number of felony convictions, admissions to probation, number of offenders sentenced to post-imprisonment supervision, number of offenders sentenced to county jail, average length of sentence served in county jail, number of offenders sentenced to the custody of the Department of Corrections, and average length of sentence served in the custody of the Department of Corrections;

2. Current jail capacity, and jail population data by offender-type including, but not limited to, misdemeanor, felony, trusty, post-trial detainee, pretrial detainee, disciplinary sanction or juvenile;

3. A listing of services and programs available in the community, including costs, space availability, the number of offenders participating, the average length of participation and performance-based data;

4. Range of community punishments previously used by the courts for offenders within the jurisdiction, including methods and use of disciplinary sanctions for noncriminal behavior of offenders sentenced to community punishment and use of incentives;

5. A listing of educational, vocational-technical, health, mental health, substance abuse treatment, medical, and social services available to offenders or to be made available within a twelve-month period;

6. Restrictive residential facilities or other restrictive housing options available or to be made available within a twelve-month period; and

7. Approved local system plans and budgets.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.8 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. A community sentencing system established pursuant to the provisions of the Oklahoma Community Sentencing Act shall include those community punishments and programs and services enumerated and funded as a pilot project in the annual plan submitted to the Community Sentencing Division within the Department of Corrections and any other services or punishments subsequently added and funded during a plan year. The options may not be utilized for offenders not meeting the eligibility criteria of programs and score requirements for the Level of Services Inventory (LSI) or other approved assessment. Each local system shall strive to have available to the court all of the following services for eligible offenders:

1. Community service with or without compensation to the offender;

2. Substance abuse treatment and availability for periodic drug testing on offenders following treatment;

3. Varying levels of supervision by the Department of Corrections probation officers or another qualified supervision source;

4. Education and literacy provided by the State Department of Education, the county library system, the local school board, or another qualified source;

5. Employment opportunities and job skills training provided by the State Department of Vocational Technical Education or another qualified source;

6. Enforced collections provided by the local court clerk, or another state agency; and

7. The availability of county jail or another restrictive housing facility for limited disciplinary sanctions.

B. The court may order as a community punishment for an eligible offender any condition listed as a condition available for a suspended sentence.

C. In all cases in which an offender is sentenced to a community punishment, the offender shall be ordered as part of the terms and conditions of the sentence to pay for the court ordered sanction, based upon ability to pay. Payments may be as provided by court order or pursuant to periodic payment schedules established by the service provider. If the offender does not have the financial ability to pay for the court ordered sanction, payment shall be made from funds budgeted for the local community sentencing system.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.9 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Any offender sentenced to a community sentence pursuant to the Oklahoma Community Sentencing Act which requires supervision shall be required to pay a supervision fee. The supervising agency shall establish the fee amount, not to exceed Forty Dollars (\$40.00) per month, based upon the offender's ability to pay. In hardship cases the supervising agency may expressly waive all or part of the fee. No supervising agency participating in a local community sentencing system shall deny any offender supervision services for the sole reason that the offender is indigent. Fees collected for supervision services performed by the Department of Corrections shall be paid directly to the Department to be deposited in the Department of Corrections Revolving Fund. Supervision services performed by agencies other than the Department shall be paid directly to that agency.

B. In addition to any supervision fee, offenders participating in a local community sentencing system under a court-ordered community punishment shall be required to pay an administrative fee to support the local system which shall not exceed Twenty Dollars

(\$20.00) per month to be set by the court. Administrative fees when collected shall be deposited with the Community Sentencing Division within the Department of Corrections and credited to the local community sentencing system for support and expansion of the local community corrections system. In the event the court fails to order the amount of the administrative fee, the fee shall be Twenty Dollars (\$20.00) per month.

C. In addition to any supervision fee and administrative fee authorized by this section, the court shall assess court costs, and may assess program reimbursement costs, restitution, and fines to be paid by the offender. With the exception of supervision fees, other fees, costs, fines, restitution, or monetary obligations ordered to be paid by the offender shall not cease with the termination of active supervision and such obligations shall continue until fully paid and may be collected in the same manner as court costs.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.10 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. It is the responsibility of the planning council, the sentencing judge, and the local administrator to ensure that the expenditure of funds within the local community sentencing system is appropriately made only for eligible offenders within the range of services offered to the court. It is further the responsibility of the local system, the prosecutor, the defense attorney, and sentencing court to keep an awareness of the local correctional resources and to utilize those resources in the most efficient manner when punishing eligible offenders with community punishments.

B. The sentencing judge when imposing any punishment pursuant to the provisions of the Oklahoma Community Sentencing Act shall consider the most cost-effective treatment specifically targeted for the offender's needs as determined by the Level of Services Inventory (LSI) report.

C. The statewide system and each local system is required to monitor sentencing practices and eligibility requirements, prioritize expenditures, and operate within available resources for eligible offenders.

D. The Community Sentencing Division within the Department of Corrections shall not fund any community sentencing system beyond the accepted budget amounts in any fiscal year.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.11 of Title 22, unless there is created a duplication in numbering, reads as follows:

Each service provider contracting with the state pursuant to the Oklahoma Community Sentencing Act shall be required to have a performance-based evaluation within two (2) years of participating in a local community sentencing system. The initial performance-based evaluation of a program or service shall be made two (2) years from the date a program or service is first designated in the local system plan and funded, provided the program or service continues to be included in the local system plan during a second or subsequent plan year. After an initial evaluation, the program or service shall be reviewed annually when the program or service continues to

be designated as part of the local system plan. The Community Sentencing Division within the Department of Corrections may establish other criteria for evaluating programs and services, and shall establish procedures by rule for review of the evaluations prior to any renewal of service provider agreements or selection of new service providers. Evaluations shall apply to state agencies offering services pursuant to the provisions of the Oklahoma Community Sentencing Act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.12 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Any person sentenced to a community punishment pursuant to the provisions of the Oklahoma Community Sentencing Act shall not be deemed an inmate, nor shall the person be considered to be in the custody of the Department of Corrections, nor shall the person require processing through the Lexington Reception and Assessment Center. Persons sentenced to community punishment pursuant to the Oklahoma Community Sentencing Act shall be in community custody within the county.

B. Except as otherwise specifically provided by law, persons sentenced to a community punishment which does not include incarceration shall not have medical or dental expenses paid by the Department of Corrections or reimbursed by the Community Sentencing Division.

C. In jurisdictions where the local community sentencing system is receiving state funds, the local administrator may request the Community Sentencing Division within the Department of Corrections to provide emergency medical assistance to an individual offender when the medical emergency is related to a period of court-ordered confinement. When a request for emergency medical services is made, the Division shall consider necessary emergency medical assistance on a case-by-case basis.

D. In jurisdictions where the local community sentencing system is receiving state funds, any felony offender requiring extensive medical treatment or services relating to confinement, which is a court-ordered part of a community sentence, may be transferred to the Department of Corrections for appropriate medical treatment upon order of the court. The offender shall be returned to the local system following the necessary medical treatment or upon completion of the sentence whichever occurs first.

E. In jurisdictions where the local community sentencing system is receiving state funds, the state will pay all required medical expenses while a person is incarcerated in the county jail under a disciplinary sanction for a community punishment, provided the state has the obligation to pay for the term of incarceration pursuant to the provisions of the Oklahoma Community Sentencing Act.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.13 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Each local community sentencing system shall collaborate with a local administrator who shall be employed by the Community

Sentencing Division within the Department of Corrections. The local administrator shall have the duty to:

1. Assist in administering the day-to-day operation of the local community sentencing system within the approved budget and plan and according to the provisions of the Oklahoma Community Sentencing Act and any rules promulgated by the Division;

2. Assist the planning council in the jurisdiction in identifying resources, collecting data on sentencing practices, and preparing the annual plan and supporting budget;

3. Provide the court with a listing of available services within the local community sentencing system for purposes of imposing a community sentence;

4. Carry out court orders pursuant to the provisions of the Oklahoma Community Sentencing Act as provided in the offender's judgment and sentence;

5. Assist offenders in locating service providers who are participating in the local system according to the terms of the community sentence;

6. Report to the judge all completions and violations of court orders for community sentences or community punishments;

7. Keep accurate records for the local system and coordinate those records for monitoring by the Community Sentencing Division;

8. Monitor the local service providers to assure appropriate delivery of services to both the offender and the local system;

9. Coordinate support for the planning council and the sentencing court;

10. Ensure that restitution, reimbursements, fines, costs, and other payments and fees are paid to and deposited with the appropriate entity;

11. Report to the Community Sentencing Division within the Department of Corrections any complaints or service delivery problems;

12. Ensure criminal disposition reports on community sentences are made to appropriate state and federal agencies; and

13. Perform other functions as specified by the Community Sentencing Division within the Department of Corrections for purposes of implementing the provisions of the Oklahoma Community Sentencing Act.

B. The local administrator shall collaborate with and assist all existing county employees when a county has a preexisting community program operated at county expense. In the event state funding is to be provided for continuing an existing program, the Division shall promulgate rules for continuing an existing program.

C. When a service provider is selected to be part of the local community sentencing system, the employees of that service provider

shall not become employees of the county, the local community sentencing system, or the state by virtue of any contractual agreement or payments from the state.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.14 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created within the Department of Corrections the "Community Sentencing Division". The purpose of the Division shall be to implement and administer the Oklahoma Community Sentencing Act and any provisions of law relating to the operation and management of a statewide community sentencing system.

B. The Community Sentencing Division shall employ an executive management staff consisting of a deputy director and such other employees as authorized by the Legislature and subject to appropriations, who shall be unclassified state employees. In addition to the executive management staff, there shall be an appropriate number of local community sentencing system administrators as authorized by the Legislature and subject to appropriations, who shall be unclassified state employees of the Division. The deputy director of the Division shall report directly to the Director of the Department of Corrections. The Legislature shall provide the Department of Corrections sufficient funds for administrative support to the Division, and the Division shall have a separate legislative appropriation for the implementation and operation of the statewide community sentencing system pursuant to the provisions of the Oklahoma Community Sentencing Act. The Director of the Department of Corrections shall hire and set the salary of the executive management staff. The deputy director of the Division shall hire the local administrators.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.15 of Title 22, unless there is created a duplication in numbering, reads as follows:

The Community Sentencing Division within the Department of Corrections shall have the duty to:

1. Administer a statewide community sentencing system pursuant to the provisions of the Oklahoma Community Sentencing Act and other provisions of law;

2. Establish goals and standards for the statewide community sentencing system and the local community sentencing systems;

3. Promulgate rules pursuant to the Administrative Procedures Act for the implementation and operation of the Oklahoma Community Sentencing Act;

4. Provide technical assistance and administrative support to each local community sentencing system. The technical assistance shall include, but not be limited to, information on:

- a. corrections system design,
- b. administration,

- c. development, monitoring, and evaluating of programs and services,
- d. program identification and specifications,
- e. offender risk management,
- f. supervision of offenders,
- g. planning and budgeting,
- h. grant applications, and
- i. preparation and submission of documents, data, budgets, and system plans;

5. Coordinate and collaborate with other state agencies for services and technical assistance to each local community sentencing system;

6. Apply for and accept money and other assets to be utilized for support of a statewide community sentencing system and to allocate and disburse appropriated funds to local community sentencing systems through an appropriate funding method;

7. Review, analyze and fund local system plans within budgetary limitations;

8. Contract with local service providers and state agencies for services to the local system;

9. Identify and solicit other funding sources and resources to support the statewide community sentencing system;

10. Request post audits of state funds;

11. Monitor and coordinate local systems;

12. Provide performance-based evaluations for all service providers of the statewide system;

13. Report annually by January 15 to the Legislature and Governor on the statewide system. The report shall provide an evaluation of the effectiveness of the Oklahoma Community Sentencing Act in terms of public safety, appropriate range of community punishments, cost-effectiveness, performance-based effectiveness in reducing recidivism, utilization by the judiciary, resource allocation, and reduced state and local institutional receptions, if any; and

14. Disseminate information to local administrators and community sentencing systems concerning corrections issues including, but not limited to:

- a. punishment options,
- b. disciplinary sanctions,
- c. resource allocation,

- d. administration,
- e. legal issues,
- f. supervision and risk management,
- g. treatment methodology and services,
- h. education and vocational services,
- i. service and program monitoring and evaluation methods,
- j. grants and funding assistance,
- k. data and record keeping, and
- l. offender characteristics.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.16 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections shall implement pilot projects for establishment and continued operation of local community sentencing systems in the following local community sentencing systems:

- 1. One system for a county possessing a population of over two hundred thousand (200,000) according to the latest federal Decennial Census;
- 2. Two systems which have three or more counties participating; and
- 3. Not fewer than two systems which have single county participation in a rural area.

Each fiscal year the Division, in collaboration with the local planning councils, shall provide goals and funding priorities for community punishments as provided by law. The statewide community sentencing system shall be composed of local community sentencing system plans as approved by the Division. The Division shall promulgate rules for local community sentencing systems based upon objective criteria for allocation of state appropriated funds to local systems for day-to-day operation during a fiscal year which may include identification of:

- 1. Fiscally responsible allocations of services and funds;
- 2. Innovative or effective programs of the local system; and
- 3. Appropriate targeting of offenders for services.

The Division and each of the local community sentencing systems are required to operate within the appropriated funds. The state shall require each local community sentencing system to identify resources other than state funds as part of the funding formula. The Division shall establish procedures for disbursement of state funds to service providers, and shall disburse state funds in a timely manner.

B. For a local community sentencing pilot project to remain eligible for state funding, a local community sentencing system shall:

1. Demonstrate fiscal responsibility by operating the local system within the plan and budget allocation;

2. Require performance-based selection of service providers participating in the annual system plan;

3. Submit a plan which offers a continuum of sanctions for eligible offenders sentenced to the local community sentencing system and appropriately assign offenders for services; and

4. Comply with the rules promulgated by the Community Sentencing Division within the Department of Corrections and the provisions of the Oklahoma Community Sentencing Act.

C. The Community Sentencing Division within the Department of Corrections shall review and evaluate all community sentencing system plans and budget requests when plans are submitted for approval and funding. The Division is directed to automatically approve all plans complying with the provisions of the Oklahoma Community Sentencing Act which require no state funding.

D. When state funding is required to implement a local community sentencing system plan, the Community Sentencing Division shall approve the plan only to the extent that the jurisdiction's share of the total state appropriations will support the implementation of the local system plan. Modification to a local plan shall be for budgetary purposes, as provided in Section 7 of this act, and for compliance with law and rule.

E. State funds from the Community Sentencing Division disbursed to community sentencing systems shall be used for operation and administrative expenses and shall not be used to construct, renovate, remodel, expand or improve any jail, residential treatment facility, restrictive housing facility, or any other structure, nor shall these funds be used to replace funding or other resources from the federal, state, county or city government committed in support of the detailed system plan during the plan year.

F. Any funds accruing to the benefit of a community sentencing system shall be deposited in the Oklahoma Community Sentencing Revolving Fund created as provided in Section 557.1 of Title 57 of the Oklahoma Statutes, and shall be credited to the local jurisdiction making such deposit. The Community Sentencing Division within the Department of Corrections and every local planning council are authorized to apply for and accept grants, gifts, bequests and other lawful money from nonprofit private organizations, for-profit organizations, political subdivisions of this state, the United States, and private citizens to support or expand the community sentencing system.

G. Requests for capital expenditures in support of the local community sentencing system shall be made as provided by the rules promulgated by the Community Sentencing Division within the Department of Corrections.

H. For purposes of calculating state funding for local community sentencing systems, supervision, treatment, and education shall be the first funding priorities.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.17 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections shall utilize the Level of Services Inventory (LSI) assessment instrument, or another assessment that evaluates criminal risk to recidivate, to evaluate all eligible offenders sentenced to community punishments under the Oklahoma Community Sentencing Act. This assessment shall not be waived and is required for eligibility determination.

B. The Administrative Office of the Courts shall assist in promulgating instructions and forms necessary for the courts' use of the required assessment. In collaboration with the Department of Corrections, all state agencies shall provide technical assistance necessary to implement and monitor the Oklahoma Community Sentencing Act in the areas of their expertise and experience, and shall offer services to local community sentencing systems.

C. All participating state agencies and local planning councils are directed to promulgate rules necessary to implement the provisions of the Oklahoma Community Sentencing Act. When promulgating the rules, participating state agencies and local planning councils shall collaborate with the Division so their rules enhance the effectiveness of the statewide community sentencing system and statewide goals established for the criminal justice system.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.18 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. On and after March 1, 2000, for each felony offender considered for any community punishment pursuant to the Oklahoma Community Sentencing Act, the judge shall, prior to sentencing, order an assessment and evaluation of the defendant as required by law.

B. The Level of Services Inventory (LSI), or another assessment and evaluation instrument designed to predict risk to recidivate approved by the Department of Corrections, shall be required to determine eligibility for any offender sentenced pursuant to the Oklahoma Community Sentencing Act. The completed assessment accompanied by a written supervision plan shall be presented to and reviewed by the court prior to determining any punishment for the offense. The purpose of the assessment shall be to identify the extent of the defendant's deficiencies and pro-social needs, the potential risk to commit additional offenses that threaten public safety, and the appropriateness of various community punishments.

C. Upon order of the court, the defendant shall be required to submit to the LSI or other approved assessment which shall be administered and scored by an appropriately trained person designated by the court or pursuant to a service agreement with the local community sentencing system. Any defendant lacking sufficient skills to comprehend or otherwise participate in the assessment and

evaluation shall have appropriate assistance. If it is determined that the offender cannot be adequately evaluated using the LSI or another approved assessment, the offender shall be deemed ineligible for any community services pursuant to the Oklahoma Community Sentencing Act, and shall be sentenced as prescribed by law for the offense.

D. The willful failure or refusal of the defendant to be assessed and evaluated by using the LSI or another approved assessment shall preclude the defendant from eligibility for any community punishment.

E. The completed LSI, or other approved assessment, shall include a written supervision plan and identify an appropriate community punishment, if any, when the offender is considered eligible for community punishments based upon the offender's completed risk/need score from the LSI assessment. Any offender scoring outside the moderate range on the LSI assessment shall not be eligible for any state funded community punishments.

F. The court is not required to sentence any offender to a community punishment regardless of an eligible score on the LSI. Any felony offender scoring in the low risk/need levels on the LSI may be sentenced to a suspended sentence with minimal, if any, conditions of the sentence to be paid by the offender. If the LSI or another assessment has been conducted, the evaluation report shall accompany the judgment and sentence.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.19 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. When ordering a community sentence or community punishment, the court shall first impose a deferred or suspended sentence for the offense as prescribed by law, and shall then order the appropriate community punishment as a condition of that deferred or suspended sentence. The design of the community punishment shall be based upon the supervision and intervention report from the Level of Services Inventory (LSI), or other approved assessment. The local community sentencing system administrator shall have authority for all offender placements within the local community sentencing system pursuant to the court-ordered community sentence.

B. Persons convicted of or pleading guilty or nolo contendere to a combination of misdemeanor and felony offenses may receive services from a local community sentencing system when the county agrees in writing to pay the Community Sentencing Division within the Department of Corrections for the actual costs of services used for misdemeanor cases. No state funds shall be used to pay for misdemeanor offenses.

C. Any time during the term of a community sentence, the court imposing the sentence may modify any previous provision as provided in this section.

D. Upon consideration of a properly filed motion to modify a community sentence pursuant to the provisions of this section, the staff of the community sentencing system in which the offender is ordered to participate, the sheriff, the district attorney, the service provider, or any agency or person providing supervision of

the offender shall provide the court with any reports and other information available and relating to the offender, and to the reason for the motion to modify the sentence. The court shall consider any reports and information submitted prior to modifying the sentence.

E. If the court considers a motion to modify a community sentence, a hearing shall be held in open court. The notice of the hearing shall be given to the offender, the offender's legal counsel, and the district attorney of the county in which the offender was convicted not less than ten (10) days prior to the hearing. A copy of any reports to be presented to the court shall accompany the notice of hearing.

F. Following the hearing, the court shall enter the appropriate order authorized by law. The court may modify any community sentence by imposing any other punishment allowed by law for the offense and appropriate for the circumstances as determined by the discretion of the judge; provided, however, no punishment shall be imposed which is greater than the maximum punishment allowed by law for the original offense. The court shall give the offender day-for-day credit on any modified sentence for any term of incarceration imposed. The court may impose either a disciplinary sanction or an incentive as provided in Section 20 of this act in lieu of or together with any modification authorized by this section.

G. The court shall not be limited on the number of modifications a sentence may have within the term of the community sentence.

H. Any offender who files a meritless or frivolous motion to modify a community sentence shall pay the costs of the proceeding and may be sanctioned as deemed appropriate by the court.

I. The court may revoke or accelerate a community punishment to the original sentence imposed during the term of the sentence. When a community sentence is revoked to state imprisonment, the court shall give a day-for-day credit for any term of incarceration actually served as community punishment.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.20 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Upon proper motion to the court to modify a community sentence as provided in Section 19 of this act, the judge shall have authority to impose disciplinary sanctions or incentives. An order for a disciplinary sanction shall not modify the terms of the original sentence and shall be imposed only to gain compliance with the terms of the court-ordered community punishment. The court may order any community punishment available and funded in the jurisdiction that is deemed appropriate by the judge for the circumstance including, but not limited to, a term of imprisonment not to exceed thirty (30) days per disciplinary order in either:

1. The county jail;
2. A residential treatment facility;

3. A restrictive housing facility; or

4. A halfway house.

When the offender is to be confined, the sheriff shall, upon order of the court, deliver the offender to the designated place of confinement, provided the place of confinement has an agreement for confinement services with the local community sentencing system or is the county jail. The sheriff shall be reimbursed by the local community sentencing system for transporting offenders pursuant to this subsection. The offender shall be given day-for-day credit for any terms of incarceration served in the county jail or other restrictive facility when the sentence is modified.

B. The court may, through a standing court order, provide for specific disciplinary sanctions and incentives which may be utilized by the local administrator upon notification to the court.

C. When a motion for modification has been filed pursuant to Section 19 of this act, the court shall have authority to offer incentives to offenders to encourage proper conduct in the community and for compliance with the community punishments. The court shall use its discretion in ordering appropriate incentives. Incentives shall be considered a reduction and modification to the community punishment and may be ordered after the motion to modify has been heard.

D. When any offender is disciplined by the court as authorized by this section and is to be imprisoned in a state penitentiary, the county jail or other restrictive facility, the sheriff or facility administrator shall receive compensation as provided by their agreement with the local community sentencing system, or the sheriff or facility administrator shall be paid directly for the services by the offender when ordered to pay for the confinement as part of the disciplinary sanction. In no event shall any compensation for disciplinary confinement exceed the maximum amount provided for county jail confinement in Section 28 of this act.

E. The Department of Corrections is prohibited from accepting offenders into any state penitentiary for disciplinary sanctions.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.21 of Title 22, unless there is created a duplication in numbering, reads as follows:

Any law directing earned credits during periods of imprisonment or otherwise, including Sections 20, 58.3, 138, 138.1 and 224 of Title 57 of the Oklahoma Statutes and Section 615 of Title 69 of the Oklahoma Statutes, shall not be applicable to persons sentenced to a community sentence pursuant to the provisions of the Oklahoma Community Sentencing Act. Day-for-day credits for any term of incarceration served as part of a community punishment shall be given to offenders who have community sentences revoked to county jail or state prison and also shall be given when a community sentence is modified.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.22 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Any offender ordered to participate in the local community sentencing system shall be advised of the conditions of the specific program or service to which he or she is assigned.

B. Prior to completing a community punishment, the offender may, in special circumstances, request a reciprocal assignment in another jurisdiction to complete the terms and conditions of the community punishment. Each community sentencing system shall have entered into a reciprocal agreement for services with the other jurisdiction, and shall have the approval of the receiving jurisdiction and a court order from the court having jurisdiction of the offender before any transfer of the person, case, and services shall be made.

C. Upon completion of any court-ordered provision, pursuant to the Oklahoma Community Sentencing Act, the administrator of the local system shall file a statement with the court defining the provision which has been successfully completed. When all court-ordered provisions have been successfully completed the defendant shall be deemed to have completed the community punishment.

D. The provisions of the Oklahoma Community Sentencing Act shall not confer any rights upon the defendant to avoid a term of imprisonment prescribed by law for the offense, nor grant any additional rights to appeal for failure to be offered any specific punishment or treatment option available to the court.

E. A community sentence pursuant to the Oklahoma Community Sentencing Act shall not require active supervision, programs or services for more than three (3) years, but may continue beyond the three-year limitation for purpose of completing court-ordered monetary obligations.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988.23 of Title 22, unless there is created a duplication in numbering, reads as follows:

All state and local government agencies, community service agencies, nonprofit organizations, educational or vocational-technical entities, and other providers participating in a community sentencing system or contracting to provide services to the system pursuant to the provisions of the Oklahoma Community Sentencing Act are hereby granted immunity from liability for acts of any offender participating in a community sentencing system pursuant to the provisions of the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, and for torts committed by or against any offender participating in a community sentencing system to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes or as provided in the Governmental Tort Claims Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 990a-1.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

When sentencing an eligible offender on or after March 1, 2000, to a community punishment, the sentencing court shall impose a deferred or suspended sentence and then proceed to determine at the sentencing hearing the terms and conditions of the community

punishment which shall be ordered as conditions of the deferred or suspended sentence.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 557.2 of Title 57, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Community Sentencing Division within the Department of Corrections to be designated the "Oklahoma Community Sentencing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all funds appropriated to it by the Legislature, grants, gifts, bequests and any other lawful money received for the benefit of the statewide community sentencing system. All funds received shall be deposited to the fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Division for state funding to approved community sentencing systems established pursuant to the provisions of the Oklahoma Community Sentencing Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 26. AMENDATORY 22 O.S. 1991, Section 991a-2, as last amended by Section 17 of Enrolled House Bill No. 1009 of the 1st Extraordinary Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 991a-2. A. Any person who has been convicted of a nonviolent felony offense in this state may be sentenced, at the discretion of the judge, to incarceration in the county jail for a period of one or more nights or weekends with the remaining portion of each week being spent under ~~probation, in lieu of any other kind of imprisonment prescribed~~ supervision. County jail imprisonment pursuant to the provisions of this section for felony offenders shall be:

1. Prescribed by law for the particular felony; or
2. A condition of a suspended sentence.

B. In addition to incarceration, the court may impose any fine, cost assessment, or other punishment provision allowed by law; provided, however, the punishment when taken in its entirety with the jail term shall not impose a greater punishment than allowed by law for the offense.

C. Any person incarcerated in the county jail pursuant to the provisions of this section may be assigned work duties as ~~may be ordered or~~ approved by the judge. The sentencing court may require a person incarcerated pursuant to the provisions of this section to pay the county, for food and maintenance for each day of incarceration, an amount equal to the maximum amount prescribed by law to be paid by the county to the sheriff for such expenses. If the judge does not so order, the Department of Corrections shall reimburse the county for the cost of feeding and care of the person during such periods of incarceration.

~~C.~~ D. The Department of Corrections shall reimburse the county for the actual cost paid for any emergency medical care for physical injury or illness of a person incarcerated hereunder; provided the injury or illness is directly related to the incarceration and the county is required by law to provide such care for inmates in the jail.

~~D.~~ E. Any person incarcerated pursuant to the provisions of this section shall not be considered to be in the custody of the Department of Corrections or an inmate of the Department. The person shall be deemed to be in the custody of the county.

F. When the court sentences a person to incarceration pursuant to the provisions of this section in conjunction with a suspended sentence, the court shall have the authority to revoke any unserved portion of the suspended sentence as provided by law.

G. For the purposes of subsection A of this section, weekend incarceration shall commence at 6 p.m. on Friday and continue until 8 a.m. on the following Monday, and incarceration overnight shall commence at 6 p.m. on one day and continue until 8 a.m. of the next day. Provided, that the sentencing judge may modify the incarceration times if the circumstances of the particular case require such action. Persons who have been sentenced to incarceration in the county jail under the provisions of this section will not have to be processed through the Lexington Assessment and Reception Center prior to incarceration.

SECTION 27. AMENDATORY 22 O.S. 1991, Section 991c, as last amended by Section 21 of Enrolled House Bill No. 1009 of the 1st Extraordinary Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 991c. A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the specific conditions prescribed by the court not to exceed a five-year period. The court shall first consider restitution among the various conditions it may prescribe. The court may also consider ordering the defendant to:

1. Pay court costs and court assessments;

2. Engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant;

~~2.~~ 3. County jail confinement for a period not to exceed ninety (90) days or the maximum amount of jail time provided for the offense, if it is less than ninety (90) days;

~~3.~~ 4. Pay an amount as reimbursement for reasonable attorney fee, to be paid into the court fund, if a court-appointed attorney has been provided to defendant;

~~4.~~ 5. Be supervised in the community for a period not to exceed two (2) years. As a condition of any supervision, the defendant shall be required to pay a supervision fee of Forty Dollars (\$40.00) per month. The supervision fee shall be waived in whole or part by

the supervisory agency when the accused is indigent. No person shall be denied supervision based solely on the person's inability to pay a fee;

~~5.~~ 6. Pay into the court fund a monthly amount not exceeding Forty Dollars (\$40.00) per month during any period during which the proceedings are deferred when the defendant is not to be supervised in the community. The total amount to be paid into the court fund shall be established by the court and shall not exceed the amount of the maximum fine authorized by law for the offense;

~~6.~~ 7. Make other reparations to the community or victim as required and deemed appropriate by the court;

~~7.~~ 8. Order any ~~remedies for conditions~~ which provision is made can be imposed for a suspended sentence pursuant to paragraph 1 of subsection A of Section 991a of this title;

~~8.~~ Pay court costs; or

9. Any combination of the above provisions.

B. In addition to any conditions of supervision provided for in subsection A of this section, the court shall, in the case of a person before the court for the offense of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol and another intoxicating substance, or who is before the court for the offense of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require the person to participate in an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its determination of conditions for deferred sentence. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which the person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep the report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence

in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol abuse treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met by September 1, 1995. The court may also require the person to participate in one or both of the following:

1. An alcohol and drug substance abuse course, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

2. A victims impact panel program, if such a program is offered in the county where the judgment is rendered. The defendant shall be required to pay a fee, not less than Five Dollars (\$5.00) nor more than Fifteen Dollars (\$15.00) as set by the governing authority of the program and approved by the court, to the victims impact panel program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

C. Upon completion of the conditions of the deferred judgment, and upon a finding by the court that the conditions have been met and all fines, fees, and monetary assessments have been paid as ordered, the defendant shall be discharged without a court judgment of guilt, and the court shall order the verdict or plea of guilty or plea of nolo contendere to be expunged from the record and the charge shall be dismissed with prejudice to any further action. The procedure to expunge the defendant's record shall be as follows:

1. All references to the defendant's name shall be deleted from the docket sheet;

2. The public index of the filing of the charge shall be expunged by deletion, mark-out or obliteration;

3. Upon expungement, the court clerk shall keep a separate confidential index of case numbers and names of defendants which have been obliterated pursuant to the provisions of this section;

4. No information concerning the confidential file shall be revealed or released, except upon written order of a judge of the district court; and

5. Defendants qualifying under Section 18 of this title may petition the court to have the filing of the indictment and the dismissal expunged from the public index and docket sheet. This section shall not be mutually exclusive of Section 18 of this title.

D. Upon order of the court, the provisions of subsection C of this section shall be retroactive.

E. Upon violation of any condition of the deferred judgment, the court may enter a judgment of guilt and proceed as provided in Section 991a of this title or may modify any condition imposed. Provided, however, if the deferred judgment is for a felony offense, and the defendant commits another felony offense, the defendant shall not be allowed bail pending appeal.

F. The deferred judgment procedure described in this section shall only apply to defendants not having been previously convicted of a felony offense.

Provided, the court may waive this prohibition upon written application of the district attorney. Both the application and the waiver shall be made a part of the record of the case.

G. The deferred judgment procedure described in this section shall not apply to defendants who plead guilty or nolo contendere to a sex offense. The term "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 38.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

In jurisdictions where the local community sentencing system is receiving state funds, the state shall provide funding for county jail incarceration for disciplinary sanctions for eligible felony offenders pursuant to the provisions of the Oklahoma Community Sentencing Act at a rate of Twenty-four Dollars (\$24.00) per day per person imprisoned for a maximum term as provided by law.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 12.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

A person committing a felony offense listed in Section 30 of this act on or after March 1, 2000, and convicted of the offense shall serve not less than eighty-five percent (85%) of the sentence of imprisonment imposed within the Department of Corrections. Such person shall not be eligible for parole consideration prior to serving eighty-five percent (85%) of the sentence imposed and such person shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 13.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

Persons convicted of first degree murder as defined in Section 701.9 of Title 21 of the Oklahoma Statutes, robbery with a dangerous weapon as defined in Section 801 of Title 21 of the Oklahoma Statutes, first degree rape as defined in Section 1115 of Title 21 of the Oklahoma Statutes, first degree arson as defined in Section 1401 of Title 21 of the Oklahoma Statutes, first degree burglary as defined in Section 1436 of Title 21 of the Oklahoma Statutes, bombing as defined in Section 1767.1 of Title 21 of the Oklahoma Statutes, child abuse as defined in Section 7115 of Title 10 of the Oklahoma Statutes, forcible sodomy as defined in Section 888 of

Title 21 of the Oklahoma Statutes, child pornography as defined in Section 1021.2 or 1021.3 of Title 21 of the Oklahoma Statutes, child prostitution as defined in Section 1030 of Title 21 of the Oklahoma Statutes, lewd molestation of a child as defined in Section 1123 of the Oklahoma Statutes shall be required to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole. Persons convicted of these offenses shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed.

SECTION 31. AMENDATORY 22 O.S. 1991, Section 991a, as last amended by Section 1, Chapter 420, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a), is amended to read as follows:

Section 991a. A. Except as otherwise provided in the Elderly and Incapacitated Victims Protection Program, ~~Section 991a-5 et seq. of this title,~~ when a defendant is convicted of a crime and no death sentence is imposed, the court shall either:

1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following:

- a. to provide restitution to the victim according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, if the defendant is able to pay such restitution without imposing manifest hardship on the defendant or the immediate family and if the extent of the damage to the victim is determinable with reasonable certainty,
- b. to reimburse any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims, as a result of the criminal act for which such person was convicted, which reimbursement shall be made directly to the state agency, with interest accruing thereon at the rate of twelve percent (12%) per annum,
- c. to engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the person convicted,
- d. to pay a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes, and which provides restitution payments by convicted defendants to victims of crimes committed within this state wherein such victim has incurred a financial loss,
- e. to confinement in the county jail for a period not to exceed six (6) months,

- f. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which he or she is being sentenced,
- g. to repay the reward or part of the reward paid by a certified local crimestoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the certified local crimestoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crimestoppers program" means a crimestoppers program certified by the Office of the Attorney General pursuant to Section 991g of this title. The "Oklahoma General Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes, ~~or~~
- h. to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty,
- i. to pay a reasonable sum to the Crime Victims Compensation Board, created by Section 142.2 et seq. of Title 21 of the Oklahoma Statutes, for the benefit of crime victims,
- j. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which the person is being sentenced,
- k. to participate in substance abuse education or treatment, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,
- l. to be placed in a victims impact panel program or victim/offender reconciliation program and payment of a fee to the program of not less than Five Dollars (\$5.00) nor more than Twenty-five Dollars (\$25.00) as set by the governing authority of the program to offset the cost of participation by the defendant,
- m. to install an ignition interlock device approved by the Department of Public Safety at the defendant's own

expense. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater,

- n. to be confined by electronic monitoring administered and supervised by the Department of Corrections or a community sentence provider, and payment of a monitoring fee to the supervising authority, not to exceed Seventy-five Dollars (\$75.00) per month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,
- o. to perform one or more courses of treatment, education or rehabilitation for any conditions, behaviors, deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, antisocial behavior, personality or attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other identifiable deficiency which may be treated appropriately in the community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified

- pursuant to law or rule shall be certified by the appropriate state agency or a national organization,
- p. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,
 - q. to pay a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs,
 - r. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,
 - s. to obtain positive behavior modeling by a trained mentor,
 - t. to serve a term of confinement in a restrictive housing facility available in the community,
 - u. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
 - v. to obtain employment or participate in employment-related activities,
 - w. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
 - x. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community sentencing system as reparation to the community. Day fines shall be used to support the local system,
 - y. to submit to blood testing as required by Section 588 of Title 57 of the Oklahoma Statutes,
 - z. to repair or restore property damaged by the defendant's conduct, if the court determines the defendant possesses sufficient skill to repair or restore the property and the victim consents to the repairing or restoring of the property,
 - aa. to restore damaged property in kind or payment of out-of-pocket expenses to the victim, if the court is able to determine the actual out-of-pocket expenses suffered by the victim,
 - bb. to attend a victim-offender reconciliation program if the victim agrees to participate and the offender is deemed appropriate for participation,

- cc. in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems,
- dd. in the case of a sex offender, require the person to participate in a treatment program, if available. The treatment program must be approved by the person who has supervisory authority over the defendant. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay. For purposes of this provision, "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes;
- ee. in addition to other sentencing powers of the court, the court in the case of a defendant being sentenced for a felony conviction for a violation of Section 2-402 of Title 63 of the Oklahoma Statutes which involves marijuana may require the person to participate in a drug court program, if available. If a drug court program is not available, the defendant may be required to participate in a community sanctions program if available; and
- ff. any other provision specifically ordered by the court.

However, any such order for restitution, community service, payment to a certified local crimestoppers program, payment to the Oklahoma Reward System, or confinement in the county jail, or a combination thereof, shall be made in conjunction with probation and shall be made a condition of the suspended sentence;

2. Impose a fine prescribed by law for the offense, with or without probation or commitment and with or without restitution or service as provided for in this section, Section 991a-4 of this title or Section 227 of Title 57 of the Oklahoma Statutes;

3. Commit such person for confinement provided for by law with or without restitution as provided for in this section;

4. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty;

5. In the case of nonviolent felony offenses, sentence such person to the Community Service Sentencing Program ~~created pursuant to Section 991a-4 of this title;~~

6. In addition to the other sentencing powers of the court, in the case of a person convicted of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol or another intoxicating substance, or convicted of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require such person:

- a. to participate in an alcohol and drug substance abuse course or treatment program, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,
- b. to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Fifteen Dollars (\$15.00) nor more than Twenty-five Dollars (\$25.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee,
- c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,
- d. to install an ignition interlock device, at the person's own expense, approved by the Department of Public Safety, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for such period as the court shall determine. The restriction may be modified or removed by order of the court and notice of the order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court, or
- e. beginning January 1, 1993, to submit to electronically monitored home detention administered and supervised by the Department of Corrections, and to pay to the Department a monitoring fee, not to exceed Seventy-five Dollars (\$75.00) a month, to the Department of Corrections, if in the opinion of the court the defendant has the ability to pay such fee. Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections Revolving Fund. Any order by the court for the payment of the monitoring fee, if willfully disobeyed, may be enforced as an indirect contempt of court;

7. In addition to the other sentencing powers of the court, in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems;

8. In addition to the other sentencing powers of the court, in the case of a person convicted of any crime related to domestic abuse, as defined in Section 60.1 of this title, the court may require the defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim. The defendant may be required to pay all or part of the cost of the treatment or counseling services;

9. In addition to the other sentencing powers of the court, the court, in the case of a sex offender, shall require the person to participate in a treatment program designed specifically for the treatment of sex offenders, if available. The treatment program must be approved by the probation officer who has supervisory authority over the defendant if the defendant is placed on probation, or the court if the court retains supervisory authority over the defendant. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay.

Provided, for the purposes of this section, the term "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes; or

10. In addition to the other sentencing powers of the court, the court, in the case of a person convicted of child abuse or neglect, as defined in Section 7102 of Title 10 of the Oklahoma Statutes, may require the person to undergo treatment or to participate in counseling services. The defendant may be required to pay all or part of the cost of the treatment or counseling services.

B. Notwithstanding any other provision of law, any person who is found guilty of a violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or any person pleading guilty or nolo contendere for a violation of any provision of such sections shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. No person, agency or facility operating an alcohol and drug substance abuse evaluation

program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. If a person is sentenced to the custody of the Department of Corrections and the court has received a written evaluation report pursuant to this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection.

As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met within two (2) years from the effective date of this act.

C. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not apply to defendants being sentenced upon their third or subsequent to their third conviction of a felony or, beginning January 1, 1993, to defendants being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection. In the case of a person being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph e of paragraph 5 of subsection A of this section. Provided, the court may waive these prohibitions upon written application of the district attorney. Both the application and the waiver shall be made part of the record of the case.

D. When sentencing a person convicted of a crime, the judge shall consider any victim impact statements if submitted to the jury, or the judge in the event a jury is waived.

E. Probation, for purposes of subsection A of this section, is a procedure by which a defendant found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, is released by the court subject to conditions imposed by the court and subject to the supervision of the Department of Corrections. Such supervision shall be initiated upon an order of probation from the court, and shall not exceed two (2) years, except as otherwise provided by law. In the case of a person convicted of a sex offense, supervision shall not be limited to two (2) years. Provided further any supervision provided for in this section may be extended for a period not to exceed the expiration of the maximum term or terms of the sentence upon a determination by the Division of Probation and Parole of the Department of Corrections that the best interests of the public and the release will be served by an extended period of supervision.

F. The Department of Corrections, or such other agency as the court may designate, shall be responsible for the monitoring and administration of the restitution and service programs provided for by subparagraphs a, c, and d of paragraph 1 of subsection A of this section, and shall ensure that restitution payments are forwarded to the victim and that service assignments are properly performed.

G. 1. The Division of Probation and Parole of the Department of Corrections is hereby authorized, subject to funds available through appropriation by the Legislature, to contract with counties for the administration of county Community Service Sentencing Programs.

2. Any offender eligible to participate in the Program pursuant to this act shall be eligible to participate in a county Program; provided, participation in county-funded Programs shall not be limited to offenders who would otherwise be sentenced to confinement with the Department of Corrections.

3. The Division shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to the Division for a contract for a county-funded Program for a specific period of time. The Department shall be responsible for ensuring that any contracting county complies in full with specifications and requirements of the contract. The contract shall set appropriate compensation to the county for services to the Division.

4. The Division is hereby authorized to provide technical assistance to any county in establishing a Program, regardless of whether the county enters into a contract pursuant to this subsection. Technical assistance shall include appropriate staffing, development of community resources, sponsorship, supervision and any other requirements.

5. The Department shall annually make a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House on the number of such Programs, the number of participating offenders, the success rates of each Program according to criteria established by the Department and the costs of each Program.

H. As used in this section:

1. "Ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater; and

2. "Electronically monitored home detention" means incarceration of the defendant within a specified location or locations with monitoring by means of a device approved by the Department of Corrections that detects if the person leaves the confines of any specified location.

I. A person convicted of an offense as provided in Section 650, 650.2, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 832, 885, 888, 1114, subsection B of Section 1021, 1021.2, 1021.3, 1087, 1088, 1123, 1173 or 1192.1 of Title 21 of the Oklahoma Statutes or a person convicted of any felony who has a prior conviction for an offense listed in this subsection shall submit to deoxyribonucleic acid testing for law enforcement identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI DNA Offender Database. Submission to testing shall be required within thirty (30) days of sentencing for those defendants who do not become subject to the custody of the Department of Corrections, and submission to testing shall be done in accordance with Section 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who enter the custody of the Department of Corrections as a result of sentencing. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI DNA Offender Database at the time of their sentencing shall not be required to submit to additional testing.

Any person convicted of an offense as provided in this section who is in custody after July 1, 1996, shall provide a blood sample prior to release. Every person who is convicted of an offense as provided in this subsection whose sentence does not include a term of confinement shall provide a blood sample as a condition of the sentence.

J. Samples of blood for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood samples. Persons collecting blood for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into the custody of the Department of Corrections. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay to the Department of Corrections a fee of Fifteen Dollars (\$15.00). Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections revolving account.

SECTION 32. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Department of Corrections shall expend from any monies appropriated for the fiscal year ending June 30, 2000, not to exceed Two Million Five Hundred Three Thousand Dollars (\$2,503,000.00) for the development and operation of Community Sentencing pilot projects.

SECTION 33. This act shall become effective July 1, 1999.

SECTION 34. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 30th day of June, 1999.

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Speaker	of the House of Representatives

Passed the Senate the 30th day of June, 1999.

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President	of the Senate